

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1504 of 1998

in

SPECIAL CIVIL APPLICATION No 3522 of 1998

to

LETTERS PATENT APPEAL No 1543 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KISHORBHAI NAVINCHANDRA

Versus

STATE OF GUJARAT

Appearance:

MR HK RATHOD for Appellant

MR S.K.PATEL, ASSTT.GOV'T.PLEADER FOR RESPONDENTS

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 11/05/99

Admitted. Mr. S.K.Patel, learned Asstt. Govt.Pleader appears for the State and waives service of notice . In the facts and circumstances of the case, all the matters are taken up for final hearing today.

All these appeals arise out of a judgment and order passed by the learned Single Judge in Special Civil Applications No. 3522 to 3561 of 1998 with Special Civil Application No. 3500 of 1998, on November 6, 1998.

Proceedings were initiated before the Presiding Officer, Labour Court, Rajkot and the Labour Court vide its award dated December 18,1996 directed reinstatement of the employees to their original position with 30% back wages and continuity of service.

Being aggrieved by the said order, the above petitions came to be filed . When they were placed for admission, the learned Single Judge passed the following order:

"Issue notice to the respondents to show cause as to why the petition should not be allowed returnable on 15.7.1998. Ad-interim stay against the execution, implementation and operation of the award except the term of the award of reinstatement of the workmen is granted till further orders on condition that the petitioner should reinstate the respondent -workmen in case if he is not reinstated so far before the next date viz. 15.7.1998."

It was stated by Mr. Rathod, learned counsel for the appellants that in pursuance of the order passed by the learned Single Judge, all the workmen were ordered to be reinstated vide an order dated July 22,1998 and actually reinstated on July 24,1998. It appears that again the matters were placed before the learned Single Judge . On November 6,1998, Rule was issued and it was made absolute and the following direction was issued by the learned Single Judge:

"In view of the aforesaid, the award dated 18.12.1996 passed by the Judge, Labour court, Rajkot is quashed and set aside in each case. The learned Judge is directed to deal with individual case and return a finding if the

workman has completed 240 days or not. Rule made absolute in each of the aforesaid special civil applications to the aforesaid extent."

Various contentions have been raised by the learned counsel for the appellants.

It was, however, stated that though initially Notice was issued for final disposal also, Rule was not issued. On November 6, 1998, Rule was issued and the matters were finally disposed of. It transpires that though Notices were served to Respondents No. 1 and 2 in Special Civil Application No. 3522 of 1998, none was present. Regarding Special Civil Application No. 3500 of 1998, it was stated that though appearance of Mr. U.M. Shastri for Respondent No. 1 was shown, he was not appearing for Respondent No. 1. Notice was served to Respondent No. 2, but he was not present.

It was further stated that in pursuance of the first order order passed by the learned Single Judge, workmen were already reinstated. But after the judgement and order of the learned Single Judge, their services were ordered to be terminated on November 17, 1998 and they were actually terminated on November 18, 1998. The aforesaid facts are also mentioned in LPAs.

In the facts and circumstances of the case, in our opinion, no interference is called with the order passed by the learned Single Judge particularly when the learned Single Judge has taken care to protect the interest of all parties and the matters are remanded. Obviously, the Labour court will now consider individual case of each employee and will pass appropriate orders. In the meanwhile, however, as the workmen were already reinstated in pursuance of the order passed by the learned Single Judge, they could not have been terminated. It was stated by the learned counsel for the Appellants that there is sufficient work and that the appellants were actually working after the initial order was passed by the learned Single Judge. The said fact is not disputed by the learned Asstt. Govt. Pleader.

In the facts and circumstances of the case, LPAs are partly allowed. So far as the order of remand passed by the learned Single Judge is concerned, it is not disturbed. It is, however, directed that the Authorities will reinstate the workmen and the proceedings before the Labour court will go on. Such reinstatement will have to be made as expeditiously as possible but not later than June 1, 1999. It is further clarified that reinstatement

will be subject to final outcome of the proceedings before the Labour court. Since the matters pertain to services of workmen, the Labour Court will give due priority and dispose of the cases as expeditiously as possible but not later than December 31,1999 . The reinstatement for the intervening period is without prejudice to the rights and contentions of the parties. LPAs are accordingly disposed of. No orders on civil applications.

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